

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

HEXION SPECIALTY CHEMICALS, INC.

AI # 87883

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT**

LA. R.S. 30:2001, ET SEQ.

* **Settlement Tracking No.**

* **SA-MM-07-0009**

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* **Enforcement Tracking No.**

* **MM-CN-04-0036**

* **AE-P-05-0197**

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* **Docket No. 2006-1881-EQ**

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SETTLEMENT

The following Settlement is hereby agreed to between Hexion Specialty Chemicals, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who operates a chemical manufacturing facility at 16122 River Road in Norco, St. Charles Parish, Louisiana ("the Facility"). Respondent corporation was formed on June 1, 2005 when Resolution Performance Products LLC ("RPP") was merged with (or otherwise acquired by) three (3) other specialty chemicals and coatings companies (Borden Chemical, Inc., Resolution Specialty Materials LLC, and Bakelite AG).

II

On March 17, 2005, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-04-0036, which was based upon the following findings of fact:

The Respondent owns and/or operates a chemical manufacturing facility located at 16122

River Road in Norco, St. Charles Parish, Louisiana. The facility was previously owned and operated by RPP, which had acquired the facility from Shell Oil Company (Shell Chemical Company) in November of 2000. The facility operated under Air Permit No. 2520-00008-04 issued September 19, 2000. This permit contained sources that were sold to the Respondent as well as sources that remained with Shell Chemical Company. Sources related to the flare component of this permit were later separated into Air Permit No. 2764 issued on December 4, 2001, which was later reconciled into Title V Permit No. 2764-V1 issued on March 21, 2003. The facility also operated under Title V Permit No. 2252-V0 issued on April 11, 1997, and administratively amended on January 15, 1998, Title V Permit No. 2586-V0 issued on December 7, 1998, and administratively amended on January 5, 2004, and other permits.

On or about July 31, 2001, the Respondent submitted a request to utilize the Louisiana Consolidated Fugitive Emissions Program (LCFEP) to streamline its fugitive emission program by implementing 40 CFR 63, HON Subpart H for the following process units: High Performance Resins Unit (HPRU), Epichlorohydrin Unit (C-Unit), and Incinerator Systems (NCIN-1 & NCIN-2). Prior to July 31, 2001, fugitive emission monitoring varied among different federal and state fugitive emission monitoring programs. On or about November 7, 2001, the Department granted an approval to the Respondent's request to utilize the LCFEP.

On or about May 6, 2004, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

- A. The Department received an unauthorized discharge notification report from the Respondent dated February 19, 2002, regarding a release that began on February 12, 2002, at approximately 10:35 a.m. and lasted for approximately 3 minutes. According to the Respondent's report, Incinerator I shut down upon loss of flame

indication. At the time of the shutdown, the incinerator was carrying 90% of the plant vent load. These vents were automatically diverted to Incinerator II. The instrumentation on Incinerator II could not react quickly enough to the increased load to allow stable operation. This instability caused Incinerator II to shut down. With both incinerators off-line, plant vents were diverted to the atmosphere through the plant's emergency vent scrubber. According to the Respondent's letter dated February 19, 2002, this release was preventable and emissions from this incident were reported as follows:

NAME	AMOUNT RELEASED (LBS)
Allyl Chloride	129.6
Epichlorohydrin	8.1
Methyl Ethyl Ketone	1.1
Methyl Isobutyl Ketone	0.2
Acetone	1.8
Xylene	0.1
1,3-Dichloropropene	0.2
1,2-Dichloropropane	0.1
2,3-Dichloropropene	0.1
Ethylene dichloride	0.2
VOCs not otherwise listed	38.8

This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

- B. The Department received an unauthorized discharge notification report from the Respondent dated November 28, 2001, regarding a release that began on November 21, 2001, at approximately 5:20 a.m. and ended the same day at 7:10 a.m. The release resulted in approximately 14.5 lbs of nitrogen oxides being emitted to the atmosphere. According to the Respondent's report, an instrument craftsman inadvertently touched an electrical fault causing an electrical short that triggered a C-Unit shutdown. The shutdown caused the propylene refrigeration compressor to stop and the suction drum to fill with propylene. The pressure in the drum continued to increase, eventually causing the relief valve to vent to the flare. The release was a result of the instrument craftsman's inadvertent

touching of an electrical fault. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

- C. The Department received an unauthorized discharge notification report from the Respondent dated January 3, 2003, regarding a release that began on December 27, 2002, at approximately 3:00 a.m. and ended on December 30, 2002, at approximately 9:35 a.m. According to the Respondent's report, a rupture disc blew on the epichlorohydrin distillation column in the C-Unit. The Respondent's investigation of the blown disc indicated that it was most likely ruptured during decontamination activities prior to the column's startup on December 27, 2002. Emissions from this incident were reported as follows:

NAME	AMOUNT RELEASED (LBS)	REPORTABLE QUANTITY (LBS)
Acrolein	51	1
Allyl Chloride	268	1000
Epichlorohydrin	550	100
2,3-Dichloropropene	34	1000
VOCs not otherwise listed	1576	5000

According to the Respondent's letter dated January 3, 2003, the release was caused by operator oversight and was preventable. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

- D. The Department received an unauthorized discharge notification report from the Respondent dated April 17, 2003, and a follow-up

report on May 2, 2003, regarding a release that began on April 13, 2003, at approximately 7:00 a.m. and lasted approximately 24 minutes. According to the Respondent's report, the incinerator blower was accidentally shut off, causing the incinerator pressure to increase and shutdown the organic chloride Incinerator I and once the incinerator shutdown, process vents were automatically diverted to atmosphere through the plant's emergency vent scrubber. Emissions from this incident were reported as follows:

NAME	AMOUNT RELEASED (LBS)	REPORTABLE QUANTITY (LBS)
Allyl Chloride	38.56	10
Epichlorohydrin	32.25	100
Methyl Ethyl Ketone	7.7	1000
Methyl Isobutyl Ketone	1.1	1000
Acetone	12.76	5000
Acrolein	0.09	1
1,3- Dichloropropene	0.3	100
1,2- Dichloropropane	0.31	1000
2,3- Dichloropropene	0.27	100
Toluene	1.76	100
VOCs not otherwise listed	229.16	5000

According to the Respondent's letter dated April 17, 2003, the blower shutdown was caused when a contract employee performing work for another company/facility co-located at the Respondent's Norco site accidentally tripped an electrical breaker, shutting off power to the incinerator blowers. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

- E. The Department received a General Condition XI notification report from the Respondent dated May 7, 2001, regarding unpermitted

emissions from the West Site Flare, A-SA204 (Emission Point No. 108), operating under Air Permit No. 2520-00008-04, issued on September 19, 2000, to Shell Chemical Company. The Respondent became the owner/operator of several permitted sources under Air Permit No. 2520-00008-04 including the West Site Flare, A-SA204 (Emission Point No. 108), on or about November 14, 2000. This permitted emission source, West Site Flare, A-SA204, receives permitted process vent streams from the Respondent's facility processes as well as two adjacent companies (Union Carbide, a subsidiary of Dow Chemical Company and Shell Chemical Company). In May 2001, the Respondent discovered that off-site vents from Union Carbide had been sent to the West Site Flare, A-SA204. These unpermitted vents included chlorinated hydrocarbons that were producing emissions of HCl, titanium tetrachloride, and other emissions. After meeting with representatives for the Respondent, Union Carbide, and Shell Chemical Company, the Department issued a variance to the Respondent on or about October 29, 2001, to route the off-site vent stream from Union Carbide's SHAC Unit to the Respondent's incinerators (Emission Point Nos. 173 and 174). In the interim, the stream was routed to reduce HCl emissions to the incinerators combined with a halogen scrubber. On or about December 4, 2001, Air Permit No. 2764 was issued to the Respondent for the West Site Flare, A-SA204 (Emission Point No. 108) that reflected Union Carbide's vent streams that were rerouted to the West Site Flare. According to the Respondent's follow up letter dated September 27, 2001, to the May 7, 2001 letter, the emissions from Emission Point No. 108 (West Site Flare, A-SA204) were reported as follows for the period of noncompliance:

AIR PERMIT NO. 2520-00008-04	2001 PERMITTED	2001 ESTIMATED
WEST SITE FLARE A-SA204 (EIQ 108)	EMISSIONS (TPY)	EMISSIONS (TPY)
CO	1.28	5.447
SO2	0.01	0.17
HCL	-	0.833
MEK	-	0.406
TOLUENE	-	0.048
ETHYL CHLORIDE	-	0.005
n-HEXANE	-	0.062
MCB	-	0.006
NON-HAP/TAP VOC	-	8.135
TOTAL VOC	5.76	8.663

Each emission above the permitted limit is a violation of Air Permit No. 2520-00008-04, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. Each unpermitted emission is a violation

of LAC 33:III.501.C.2. and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- F. The Department received several General Condition XI notification reports from the Respondent dated April 5, 2002, April 7, 2003, June 26, 2003, November 14, 2003, and April 6, 2004, regarding permit limit exceedances for sources operating under Air Permit Nos. 2520-00008-04 and 2764, and Title V Permit Nos. 2252-V0 and 2586-V0. According to the information submitted by the Respondent, the Respondent exceeded the permitted tons per year (TPY) emission limits for sources as shown in the following table:

TITLE V PERMIT NO. 2252-V0							
NEDS	EQ	EMISSION POINT	POLLUTANT	PERMITTED EMISSIONS (TPY)	2001 REPORTED EMISSIONS (TPY)	2002 REPORTED EMISSIONS (TPY)	2003 REPORTED EMISSIONS (TPY)
21	173	NCIN-01	CHLOROFORM	NOT PERMITTED	0.006	<0.01	<0.01
			LEAD COMPOUNDS	NOT PERMITTED	-	<0.01	<0.01
			HCL	NOT PERMITTED	-	10.11	8.86
30	174	NCIN-02	CHLOROFORM	NOT PERMITTED	0.008	<0.01	<0.01
			HEXACHLOROBENZENE	NOT PERMITTED	-	<0.01	-
			HEXACHLOROCYCLOPENTADIENE	NOT PERMITTED	-	<0.01	<0.01
			LEAD COMPOUNDS	NOT PERMITTED	-	<0.01	<0.01
DX	196	NCIN-FUG	XYLENE (MIXED ISOMERS)	NOT PERMITTED	0.007	<0.01	-
			ACROLEIN	NOT PERMITTED	-	<0.01	-
			BENZENE	NOT PERMITTED	-	<0.01	<0.01
			NAPHTHALENE	NOT PERMITTED	-	<0.01	-
			TOLUENE	NOT PERMITTED	-	<0.01	-

AIR PERMIT NO. 2764							
NEDS	EQ	EMISSION POINT	POLLUTANT	PERMITTED EMISSIONS (TPY)	2001 REPORTED EMISSIONS (TPY)	2002 REPORTED EMISSIONS (TPY)	2003 REPORTED EMISSIONS (TPY)
38	108	A-SA204	CHLOROBENZENE	0.001	0.007	-	-
			CHLOROETHANE	0.001	0.005	-	-
			HYDROCHLORIC ACID	0.245	4.555	-	-
			PM10	0.231	1.592	-	-

AIR PERMIT NO. 2520-00008-04							
NEDS	EQ	EMISSION POINT	POLLUTANT	PERMITTED EMISSIONS (TPY)	2001 REPORTED EMISSIONS (TPY)	2002 REPORTED EMISSIONS (TPY)	2003 REPORTED EMISSIONS (TPY)
13	101	F-C201	CARBON MONOXIDE	0.8	3.246	2.65	-
			SO2	0.02	0.023	-	-
36	111	C-C803	ALLYL CHLORIDE	4.07	6.911	-	-
			PM10	0.35	0.701	-	-
			TOTAL VOC	36.79	66.677	-	-
39	110	C-UNIT	ACROLEIN	NOT PERMITTED	-	<0.01	-
			HCL	0.46	-	0.74	-
B1	102	T-T101	EPICHLOROHYDRIN	0.08	1.306	1.01	-
			TOTAL VOC	0.08	1.5	1.16	-
B2	103	C-C910	HCL	0.28	0.68	-	-
			TOTAL VOC	NOT PERMITTED	-	0.01	-
			ALLYL CHLORIDE	NOT PERMITTED	-	<0.01	-
B3	104	V-C902C	CHLORINE	0.23	1.895	-	-
B4	105	T-ST253	TOTAL VOCs	0.02	0.092	0.09	-
B7	109	CWT-12	PM10	5.2	8.738	7.77	-
B9	112	LS&H	PM10	0.53	1.019	1.28	-
DC	193	T-T102	EPICHLOROHYDRIN	0.03	6.965	6.83	-
			TOTAL VOC	0.03	7.82	7.2	-
DO	211	T-SA102	TOTAL VOC	0.13	0.17	-	-
DQ	210	V-C401	ALLYL CHLORIDE	NOT PERMITTED	0.01	0.01	-
			CHLORINE	0.01	0.097	0.11	-
V1	225	HCL/CALCL2	TOTAL VOC	NOT PERMITTED	-	0.01	-
V4	218	C-UNIT	1,3-DICHLOROPROPANE	NOT PERMITTED	0.42	<0.01	-
			1,2-DICHLOROPROPENE	NOT PERMITTED	-	<0.01	-

			ACROLEIN	NOT PERMITTED	-	0.14	-
			ALLYL CHLORIDE	NOT PERMITTED	-	0.7	-
			EPICHLOROHYDRIN	NOT PERMITTED	-	0.75	-
			HCL	NOT PERMITTED	7.76	2.87	-
			MEK	NOT PERMITTED	0.21	-	-
			TOTAL VOC	NOT PERMITTED	30.08	12.72	-

TITLE V PERMIT NO. 2586-V0							
NEDS	EIQ	EMISSION POINT	POLLUTANT	PERMITTED EMISSIONS (TPY)	2001 REPORTED EMISSIONS (TPY)	2002 REPORTED EMISSIONS (TPY)	2003 REPORTED EMISSIONS (TPY)
C7	150	HPRU FUGITIVES	H2SO4	NOT PERMITTED	-	<0.01	<0.01
			CRESOL	NOT PERMITTED	-	<0.01	-
V8	224	HPRU LOADING	EPICHLOROHYDRIN	NOT PERMITTED	-	<0.01	<0.01
			MEK	NOT PERMITTED	-	-	0.02

Each emission above the permitted limit is a violation of Title V Permit No. 2252-V0, Air Permit No. 2764, Air Permit No. 2520-00008-04, Title V Permit No. 2586-V0, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. Each unpermitted emission is a violation of Title V Permit No. 2252-V0, Air Permit No. 2764, Air Permit No. 2520-00008-04, Title V Permit No. 2586-V0, LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- G. The Department has received the Respondent's 2001 Annual Title V Certification for Title V Permit No. 2252-V0 dated March 28, 2002, encompassing the time period from January 1, 2001, through December 31, 2001. According to the report, a permit deviation occurred on or about December 5, 2001, when an incinerator was smoking for more than six (6) minutes and no opacity reading was performed within the three (3) day period after the smoking episode. According to Part 70 Specific Condition No. 2 of Title V Permit No. 2252-V0, if visible emissions are detected, then, within three (3) days, the Respondent shall conduct opacity reading in accordance with EPA Method 9 or 22. The Respondent's failure to conduct an opacity

reading as required is a violation of Part 70 Specific Condition No. 2 of Title V Permit No. 2252-V0, which was administratively amended on January 15, 1998, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- H. The Department has received the Respondent's 2002 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 31, 2003, encompassing the time period from January 1, 2002, through December 31, 2002. The Respondent also submitted addendums to the Certification dated April 23, and September 2, 2003. According to information detailed in the Respondent's report dated September 2, 2003, permit deviations occurred during the periods of April 1-30, July 1-31, and October 1-31, 2001, in that the Respondent failed to perform monthly monitoring of pumps and agitators as required under 40 CFR 60, Subpart VV, or 40 CFR 63, Subpart H. For monitoring periods prior to July 31, 2001, each failure to monitor pumps monthly is a violation of 40 CFR 60.482-2(a)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003, Part 70 Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act. For monitoring periods of July 31, 2001, or after, each failure to monitor agitators and pumps monthly is a violation of 40 CFR 63.163(b)(1) and 40 CFR 63.173(a)(1) respectively, which language has been adopted as a Louisiana Regulation in LAC 33:III.5122, Part 70 Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act.
- I. The Department has received the Respondent's 2002 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 31, 2003, encompassing the time period from January 1, 2002, through December 31, 2002. The Respondent also submitted addendums to the Certification dated April 23, and September 2, 2003. According to information detailed in the Respondent's report dated September 2, 2003, permit deviations occurred during the periods April 30-May 6, 2001, and May 7-13, 2001, in that the Respondent failed to perform weekly visual inspections of pumps as required under NSPS 40 CFR 60, Subpart VV. Each failure to visually inspect pumps weekly for indications of liquids dripping from the pump seal is a violation of 40 CFR 60.482-2(a)(2) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003 and Section 2057(A)(2) of the Act.
- J. The Department has received the Respondent's 2002 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 31, 2003, encompassing the time period from January 1, 2002, through December 31, 2002. The Respondent also submitted addendums to

the Certification dated April 23, and September 2, 2003. According to information detailed in the Respondent's report dated September 2, 2003, permit deviations occurred on June 19, 2001, and August 1, 2001, in that the Respondent failed to perform the initial monitoring of ten (10) new pumps as required in 40 CFR 60, Subpart VV and 40 CFR 63, Subpart H. For monitoring periods prior to July 31, 2001, each failure to initially monitor five (5) pumps to detect leaks by the method specified in 40 CFR 60.485(b) is a violation of 40 CFR 60.482-2(a)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003, Part 70 Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act. For monitoring periods of July 31, 2001, and after, each failure to initially monitor five (5) pumps to detect leaks by the method specified in 40 CFR 63.180(b) is a violation of 40 CFR 63.163(b)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122, Part 70 Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act.

- K. The Department has received the Respondent's 2003 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 30, 2004, encompassing the time period from January 1, 2003, through December 31, 2003. According to information detailed in the Respondent's report and the Respondent's letter dated January 23, 2003, a permit deviation occurred in that the Respondent failed to perform weekly visual inspections as required under 40 CFR 63.173(b)(1) for a period of two (2) weeks for a recently added agitator in the Respondent's HPRU unit. Each failure to perform a weekly visual inspection of an agitator for indications of leaks is a violation of 40 CFR 63.173(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Title V Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act. According to the Respondent, upon discovery of the deviation, the agitator was checked and no visible evidence of a leak was detected.
- L. The Department has received the Respondent's 2003 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 30, 2004, encompassing the time period from January 1, 2003, through December 31, 2003. According to information detailed in the Respondent's report, a permit deviation occurred from a date requirement outlined in Title V Permit No. 2586-V0, Specific Condition B, Paragraph 3. Part 70 Specific Condition B, Paragraph 3, states that semiannual reports shall be submitted on December 15 and June 15, to cover periods May 1 through October 31, and November 1 through April 30, respectively. According to the Respondent's letter

dated September 22, 2003, the Respondent has submitted the required semiannual monitoring reports during each month following the end of each calendar semiannual monitoring period, on January 31 and July 31 for the monitoring periods of July 1 through December 31 and January 1 through June 30, respectively. Each failure to submit the required semiannual monitoring report by December 15 and June 15 is a violation of Part 70 Specific Condition B, Paragraph 3 of Title V Permit No. 2586-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- M. The Department has received the Respondent's 2003 Annual Title V Certification for Title V Permit No. 2764-V1 dated March 30, 2004, encompassing the time period from March 21, 2003, through December 31, 2003. According to information detailed in the Respondent's report, a permit deviation occurred at Emission Point No. 108 (West Site Flare, A-SA204), on October 3, 2003, from 1:10 p.m. to 2:40 p.m. and on October 11, 2003, from 8:45 a.m. to 10:15 a.m., when the nitrogen purge to the flare was inadvertently left on between maintenance activities on equipment connected to the flare header system. This caused the maximum six (6) total hours allowed for maintenance activities per year to be exceeded. According to Title V Specific Condition No. 2 of Title V Permit No. 2764-V1, the total time allowed for maintenance activities is six (6) hours per year and a VOC emission limit of 0.14 tons per year. According to the Respondent, no emission limits were exceeded during this period. This is a violation of Part 70 Specific Condition No. 2 of Title V Permit No. 2764-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about February 9, 2004, a multi-media inspection of the Respondent's facility was performed to determine the degree of compliance with the Act, Hazardous Waste Regulations and Air Quality Regulations. The Department has incorporated by reference 40 CFR Part 68 which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A and 40 CFR Part 63 which language has been adopted as a Louisiana regulation in LAC 33:III.5122. On or about April 16, 2004, a warning letter was issued to the Respondent. On or about May 26, 2004, a conference call was held with the Respondent to discuss the recommendations given to the Respondent in the

CEMS report after the inspection on February 9, 2004, to ensure that they were addressing the items correctly. On or about June 11, 2004, the Department received a written response from the Respondent dated June 9, 2004.

The following violations were noted during the course of the inspection:

- A. The Respondent's incinerators NCIN-1 (ID No. 173) and NCIN-2 (ID No. 174) are subject to 40 CFR 63, Subpart EEE and operate under Title V Permit No. 2252-V0 issued April 11, 1997. These incinerators are equipped with a Continuous Emission Monitoring System (CEMS). The Department reviewed copies of the CEMS Daily Audit Sheets, Absolute Calibration Audit Summaries, and the QA/QC plan. According to this data, the Respondent failed to calibrate the carbon monoxide and oxygen analyzers when the calibration drift (CD) or zero drift (ZD) exceeded the values prescribed in the performance specifications. Each failure to calibrate the carbon monoxide and oxygen analyzers when the calibration drift (CD) or zero drift (ZD) exceeded the values prescribed in the performance specifications is a violation of 40 CFR 63.1209(d)(2) and 4.1, letter d, of the appendix of Subpart EEE of 40 CFR 63, which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Title V Permit No. 2252-V0, and Section 2057(A)(2) of the Act. The Respondent addressed this violation by implementing several training and procedural actions, including, but not limited to: retraining staff to maintain analyzers according to MACT regulations, training staff to adjust analyzers each day if the calibration was slightly off, and completing a quarterly cumulative adjustment of the analyzer to determine if the analyzer was becoming faulty.
- B. The Respondent failed to establish a system to address action items from the 2002 PHA (process hazard analysis) revalidation and failed to develop a written schedule for completion, in violation of 40 CFR 68.67(e), which language has been adopted as a Louisiana regulation in LAC 33:III.5109.A and Section 2057(A)(2) of the Act. This violation has been addressed. On or about March 9, 2004, the Respondent sent the Department a copy of the tracking system that has been developed to schedule and track all action items from the 2002 PHA revalidation.
- C. The Respondent failed to establish and implement written procedures to maintain the integrity of process equipment (pumps), in violation of 40 CFR 68.73(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5109.A and Section 2057(A)(2) of the Act.

This violation was addressed on March 9, 2004. Specifically, existing rotating equipment maintenance practices were documented in a written procedure.

- D. The Respondent failed to train each employee in the procedures applicable to the employee's job tasks, in violation of 40 CFR 68.73(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5109.A and Section 2057(A)(2) of the Act. This violation has been addressed. Specifically, the employees have been retrained and the training documentation has been completed and filed onsite in the training records. The training occurred on March 2, 2004.
- E. The Respondent failed to document tests performed on process equipment with the date and name of the person who performed the test, in violation of 40 CFR 68.73(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5109.A and Section 2057(A)(2) of the Act. This violation has been addressed. Specifically, the procedures have been modified to include date and signature for the technician performing the work. Also, the requirement for the instrument inspector to review and sign off on each Protective Instrument System (PIS) check record has been implemented.
- F. The Respondent failed to follow their procedures in that the Production Manager failed to sign the Pre-startup Safety Review (PSSR) associated with management of change (MOC) CU 1734 indicating that the PSSR was complete and the unit was approved to begin construction, in violation of 40 CFR 68.77(b)(3), which language has been adopted as a Louisiana regulation in LAC 33:III.5109.A and Section 2057(A)(2) of the Act. This violation has been addressed. Specifically, the originators of the MOC were retrained to ensure that all signatures are obtained before implementing a project.

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Respondent made a timely request for a hearing.

On April 24, 2006, the Department issued to Respondent a Penalty Assessment, Enforcement No. AE-P-05-0197, in the amount of \$29,129.12, which was based upon the following findings of fact:

The Respondent owns and/or operates the Norco Chemical Plant located at 16122 River Road in Norco, St. Charles Parish, Louisiana. The Respondent's facility operates under multiple State and Title V Air Permits. On or about November 14, 2000, the Respondent acquired the Shell Norco Chemical Plant – West Site from Shell Oil Company.

On or about July 31, 2001, the Respondent submitted a request to utilize the Louisiana Consolidated Fugitive Emissions Program (LCFEP) to streamline its fugitive emission program by implementing 40 CFR 63, HON Subpart H for the following process units: High Performance Resins Unit (HPRU), Epichlorohydrin Unit (C-Unit), and Incinerator Systems (NCIN-1 & NCIN-2). Prior to July 31, 2001, fugitive emission monitoring varied among different federal and state fugitive emission monitoring programs. On or about November 7, 2001, the Department granted the Respondent's request to utilize the LCFEP.

On or about May 6, 2004, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. The following violations were noted during the course of the file review:

- A. The Department received an unauthorized discharge notification report from the Respondent dated February 19, 2002, regarding a release that began on February 12, 2002, at approximately 10:35 a.m. and lasted for approximately 3 minutes. According to the Respondent's report, Incinerator I shut down upon loss of flame indication. At the time of the shutdown, the incinerator was carrying 90% of the plant vent load. These vents were automatically diverted to Incinerator II. The instrumentation on Incinerator II could not react quickly enough to the increased load to allow stable operation. This instability caused Incinerator II to shut down. With both incinerators off-line, plant vents were diverted to the atmosphere through the plant's emergency vent scrubber. According to the Respondent's letter dated February 19, 2002, this release was preventable and emissions from this incident were reported as follows:

NAME	AMOUNT RELEASED (LBS)
Allyl Chloride	129.6
Epichlorohydrin	8.1
Methyl Ethyl Ketone	1.1
Methyl Isobutyl Ketone	0.2
Acetone	1.8
Xylene	0.1
1,3-Dichloropropene	0.2
1,2-Dichloropropane	0.1
2,3-Dichloropropene	0.1
Ethylene dichloride	0.2
VOCs not otherwise listed	38.8

This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

- B. The Department received an unauthorized discharge notification report from the Respondent dated November 28, 2001, regarding a release that began on November 21, 2001, at approximately 5:20 a.m. and ended the same day at 7:10 a.m. The release resulted in approximately 14.5 lbs of nitrogen oxides being emitted to the atmosphere. According to the Respondent's report, an instrument craftsman inadvertently touched an electrical fault causing an electrical short that triggered a C-Unit shutdown. The shutdown caused the propylene refrigeration compressor to stop and the suction drum to fill with propylene. The pressure in the drum continued to increase, eventually causing the relief valve to vent to the flare. The release was a result of the instrument craftsman's inadvertent touching of an electrical fault. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or

abatement scheme used to prevent or reduce air pollution.” This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

- C. The Department received an unauthorized discharge notification report from the Respondent dated January 3, 2003, regarding a release that began on December 27, 2002, at approximately 3:00 a.m. and ended on December 30, 2002, at approximately 9:35 a.m. According to the Respondent’s report, a rupture disc blew on the epichlorohydrin distillation column in the C-Unit. The Respondent’s investigation of the blown disc indicated that it was most likely ruptured during decontamination activities prior to the column’s startup on December 27, 2002. Emissions from this incident were reported as follows:

NAME	AMOUNT RELEASED (LBS)	REPORTABLE QUANTITY (LBS)
Acrolein	51	1
Allyl Chloride	268	1000
Epichlorohydrin	550	100
2,3-Dichloropropene	34	1000
VOCs not otherwise listed	1576	5000

According to the Respondent’s letter dated January 3, 2003, the release was caused by operator oversight and was preventable. This is a violation of LAC 33:III.905 which states, “When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.” Control equipment as defined by LAC 33:III.111 is “any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution.” This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

- D. The Department received an unauthorized discharge notification report from the Respondent dated April 17, 2003, and a follow-up report on May 2, 2003, regarding a release that began on April 13, 2003, at approximately 7:00 a.m. and lasted approximately 24 minutes. According to the Respondent’s report, the incinerator blower was accidentally shut off, causing the incinerator pressure to increase and shutdown the organic chloride Incinerator I and once the incinerator shutdown, process vents were automatically diverted to atmosphere through the plant’s emergency vent scrubber. Emissions from this incident were reported as follows:

NAME	AMOUNT RELEASED (LBS)	REPORTABLE QUANTITY (LBS)
Allyl Chloride	38.56	10
Epichlorohydrin	32.25	100
Methyl Ethyl Ketone	7.7	1000
Methyl Isobutyl Ketone	1.1	1000
Acetone	12.76	5000
Acrolein	0.09	1
1,3-Dichloropropene	0.3	100
1,2-Dichloropropane	0.31	1000
2,3-Dichloropropene	0.27	100
Toluene	1.76	100
VOCs not otherwise listed	229.16	5000

According to the Respondent's letter dated April 17, 2003, the blower shutdown was caused when a contract employee performing work for another company/facility co-located at the Respondent's Norco site accidentally tripped an electrical breaker, shutting off power to the incinerator blowers. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and 2057(A)(2) of the Act.

- E. The Department received a General Condition XI notification report from the Respondent dated May 7, 2001, regarding unpermitted emissions from the West Site Flare, A-SA204 (Emission Point No. 108), operating under Air Permit No. 2520-00008-04, issued on September 19, 2000, to Shell Chemical Company. The Respondent became the owner/operator of several permitted sources under Air Permit No. 2520-00008-04 including the West Site Flare, A-SA204 (Emission Point No. 108), on or about November 14, 2000. This permitted emission source, West Site Flare, A-SA204, receives permitted process vent streams from the Respondent's facility processes as well as two adjacent companies (Union Carbide, a subsidiary of Dow Chemical Company and Shell Chemical Company). In May 2001, the Respondent discovered that off-site vents from Union Carbide had been sent to the West Site Flare, A-SA204. These unpermitted vents included chlorinated hydrocarbons that were producing emissions of HCl, titanium tetrachloride, and

other emissions. After meeting with representatives for the Respondent, Union Carbide, and Shell Chemical Company, the Department issued a variance to the Respondent on or about October 29, 2001, to route the off-site vent stream from Union Carbide's SHAC Unit to the Respondent's incinerators (Emission Point Nos. 173 and 174). In the interim, the stream was routed to reduce HCl emissions to the incinerators combined with a halogen scrubber. On or about December 4, 2001, Air Permit No. 2764 was issued to the Respondent for the West Site Flare, A-SA204 (Emission Point No. 108) that reflected Union Carbide's vent streams that were rerouted to the West Site Flare. According to the Respondent's follow up letter dated September 27, 2001, to the May 7, 2001 letter, the emissions from Emission Point No. 108 (West Site Flare, A-SA204) were reported as follows for the period of noncompliance:

AIR PERMIT NO. 2520-00008-04	2001 PERMITTED	2001 ESTIMATED
WEST SITE FLARE A-SA204 (EQ 108)	EMISSIONS (TPY)	EMISSIONS (TPY)
CO	1.28	5.447
SO2	0.01	0.17
HCL	-	0.833
MEK	-	0.406
TOLUENE	-	0.048
ETHYL CHLORIDE	-	0.005
n-HEXANE	-	0.062
MCB	-	0.006
NON-HAP/TAP VOC	-	8.135
TOTAL VOC	5.76	8.663

Each emission above the permitted limit is a violation of Air Permit No. 2520-00008-04, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. Each unpermitted emission is a violation of LAC 33:III.501.C.2. and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- F. The Department received several General Condition XI notification reports from the Respondent dated April 5, 2002, April 7, 2003, June 26, 2003, November 14, 2003, and April 6, 2004, regarding permit limit exceedances for sources operating under Air Permit Nos. 2520-00008-04 and 2764, and Title V Permit Nos. 2252-V0 and 2586-V0. According to the information submitted by the Respondent, the Respondent exceeded the permitted tons per year (TPY) emission limits for sources as shown in the following table:

TITLE V PERMIT NO. 2252-V0							
NEDS	EQ	EMISSION POINT	POLLUTANT	PERMITTED EMISSIONS (TPY)	2001 REPORTED EMISSIONS (TPY)	2002 REPORTED EMISSIONS (TPY)	2003 REPORTED EMISSIONS (TPY)
21	173	NCIN-01	CHLOROFORM	NOT PERMITTED	0.006	<0.01	<0.01
			LEAD COMPOUNDS	NOT PERMITTED	-	<0.01	<0.01
			HCL	NOT PERMITTED	-	10.11	8.86
30	174	NCIN-02	CHLOROFORM	NOT PERMITTED	0.008	<0.01	<0.01
			HEXACHLOROBENZENE	NOT PERMITTED	-	<0.01	-
			HEXACHLOROCYCLOPENTADIENE	NOT PERMITTED	-	<0.01	<0.01
			LEAD COMPOUNDS	NOT PERMITTED	-	<0.01	<0.01
DX	196	NCIN-FUG	XYLENE(MIXED ISOMERS)	NOT PERMITTED	0.007	<0.01	-
			ACROLEIN	NOT PERMITTED	-	<0.01	-
			BENZENE	NOT PERMITTED	-	<0.01	<0.01
			NAPHTHALENE	NOT PERMITTED	-	<0.01	-
			TOLUENE	NOT PERMITTED	-	<0.01	-
AIR PERMIT NO. 2764							
NEDS	EQ	EMISSION POINT	POLLUTANT	PERMITTED EMISSIONS (TPY)	2001 REPORTED EMISSIONS (TPY)	2002 REPORTED EMISSIONS (TPY)	2003 REPORTED EMISSIONS (TPY)
38	108	A-SA204	CHLOROBENZENE	0.001	0.007	-	-
			CHLOROETHANE	0.001	0.005	-	-
			HYDROCHLORIC ACID	0.245	4.555	-	-
			PM10	0.231	1.592	-	-
AIR PERMIT NO. 2520-00008-04							
NEDS	EQ	EMISSION POINT	POLLUTANT	PERMITTED EMISSIONS (TPY)	2001 REPORTED EMISSIONS (TPY)	2002 REPORTED EMISSIONS (TPY)	2003 REPORTED EMISSIONS (TPY)
13	101	F-C201	CARBON MONOXIDE	0.8	3.246	2.65	-
			SO2	0.02	0.023	-	-
36	111	C-C803	ALLYL CHLORIDE	4.07	6.911	-	-
			PM10	0.35	0.701	-	-
			TOTAL VOC	36.79	66.677	-	-
39	110	C-UNIT	ACROLEIN	NOT PERMITTED	-	<0.01	-

			HCL	0.45	-	0.74	-
B1	102	T-T101	EPICHLOROHYDRIN	0.08	1.306	1.01	-
			TOTAL VOC	0.08	1.5	1.16	-
B2	103	C-C910	HCL	0.28	0.68	-	-
			TOTAL VOC	NOT PERMITTED	-	0.01	-
			ALLYL CHLORIDE	NOT PERMITTED	-	<0.01	-
B3	104	V-C902C	CHLORINE	0.23	1.895	-	-
B4	105	T-ST253	TOTAL VOCs	0.02	0.092	0.09	-
B7	109	CWT-12	PM10	5.2	8.738	7.77	-
B9	112	LS&H	PM10	0.53	1.019	1.28	-
DC	193	T-T102	EPICHLOROHYDRIN	0.03	6.965	6.83	-
			TOTAL VOC	0.03	7.82	7.2	-
DO	211	T-SA102	TOTAL VOC	0.13	0.17	-	-
DQ	210	V-C401	ALLYL CHLORIDE	NOT PERMITTED	0.01	0.01	-
			CHLORINE	0.01	0.097	0.11	-
V1	225	HCL/CALCL2	TOTAL VOC	NOT PERMITTED	-	0.01	-
V4	218	C-UNIT	1,3-DICHLOROPROPANE	NOT PERMITTED	0.42	<0.01	-
			1,2-DICHLOROPROPENE	NOT PERMITTED	-	<0.01	-
			ACROLEIN	NOT PERMITTED	-	0.14	-
			ALLYL CHLORIDE	NOT PERMITTED	-	0.7	-
			EPICHLOROHYDRIN	NOT PERMITTED	-	0.75	-
			HCL	NOT PERMITTED	7.76	2.87	-
			MEK	NOT PERMITTED	0.21	-	-
			TOTAL VOC	NOT PERMITTED	30.08	12.72	-
TITLE V PERMIT NO. 2586-V0							
NEDS	EIQ	EMISSION POINT	POLLUTANT	PERMITTED EMISSIONS (TPY)	2001 REPORTED EMISSIONS (TPY)	2002 REPORTED EMISSIONS (TPY)	2003 REPORTED EMISSIONS (TPY)
C7	150	HPRU FUGITIVES	H2SO4	NOT PERMITTED	-	<0.01	<0.01
			CRESOL	NOT PERMITTED	-	<0.01	-
V8	224	HPRU LOADING	EPICHLOROHYDRIN	NOT PERMITTED	-	<0.01	<0.01
			MEK	NOT PERMITTED	-	-	0.02

Each emission above the permitted limit is a violation of Title V Permit No. 2252-V0, Air Permit No. 2764, Air Permit No. 2520-00008-04, Title V Permit No. 2586-V0, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. Each unpermitted emission is a violation of Title V Permit No. 2252-V0, Air Permit No. 2764, Air Permit No. 2520-00008-04, Title V Permit No. 2586-V0, LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- G. The Department has received the Respondent's 2001 Annual Title V Certification for Title V Permit No. 2252-V0 dated March 28, 2002, encompassing the time period from January 1, 2001, through December 31, 2001. According to the report, a permit deviation occurred on or about December 5, 2001, when an incinerator was smoking for more than six (6) minutes and no opacity reading was performed within the three (3) day period after the smoking episode. According to Part 70 Specific Condition No. 2 of Title V Permit No. 2252-V0, if visible emissions are detected, then, within three (3) days, the Respondent shall conduct opacity reading in accordance with EPA Method 9 or 22. The Respondent's failure to conduct an opacity reading as required is a violation of Part 70 Specific Condition No. 2 of Title V Permit No. 2252-V0, which was administratively amended on January 15, 1998, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- H. The Department has received the Respondent's 2002 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 31, 2003, encompassing the time period from January 1, 2002, through December 31, 2002. The Respondent also submitted addendums to the Certification dated April 23, and September 2, 2003. According to information detailed in the Respondent's report dated September 2, 2003, permit deviations occurred during the periods of April 1-30, July 1-31, and October 1-31, 2001, in that the Respondent failed to perform monthly monitoring of pumps and agitators as required under 40 CFR 60, Subpart VV, or 40 CFR 63, Subpart H. For monitoring periods prior to July 31, 2001, each failure to monitor pumps monthly is a violation of 40 CFR 60.482-2(a)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003, Part 70 Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act. For monitoring periods of July 31, 2001, or after, each failure to monitor agitators and pumps monthly is a violation of 40 CFR 63.163(b)(1) and 40 CFR 63.173(a)(1).

respectively, which language has been adopted as a Louisiana Regulation in LAC 33:III.5122, Part 70 Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act.

- I. The Department has received the Respondent's 2002 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 31, 2003, encompassing the time period from January 1, 2002, through December 31, 2002. The Respondent also submitted addendums to the Certification dated April 23, and September 2, 2003. According to information detailed in the Respondent's report dated September 2, 2003, permit deviations occurred during the periods April 30-May 6, 2001, and May 7-13, 2001, in that the Respondent failed to perform weekly visual inspections of pumps as required under NSPS 40 CFR 60, Subpart VV. Each failure to visually inspect pumps weekly for indications of liquids dripping from the pump seal is a violation of 40 CFR 60.482-2(a)(2) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003 and Section 2057(A)(2) of the Act.
- J. The Department has received the Respondent's 2002 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 31, 2003, encompassing the time period from January 1, 2002, through December 31, 2002. The Respondent also submitted addendums to the Certification dated April 23, and September 2, 2003. According to information detailed in the Respondent's report dated September 2, 2003, permit deviations occurred on June 19, 2001, and August 1, 2001, in that the Respondent failed to perform the initial monitoring of ten (10) new pumps as required in 40 CFR 60, Subpart VV and 40 CFR 63, Subpart H. For monitoring periods prior to July 31, 2001, each failure to initially monitor five (5) pumps to detect leaks by the method specified in 40 CFR 60.485(b) is a violation of 40 CFR 60.482-2(a)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.3003, Part 70 Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act. For monitoring periods of July 31, 2001, and after, each failure to initially monitor five (5) pumps to detect leaks by the method specified in 40 CFR 63.180(b) is a violation of 40 CFR 63.163(b)(1) which language has been adopted as a Louisiana Regulation in LAC 33:III.5122, Part 70 Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act.
- K. The Department has received the Respondent's 2003 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 30, 2004, encompassing the time period from January 1, 2003, through December 31, 2003. According to information detailed in the

Respondent's report and the Respondent's letter dated January 23, 2003, a permit deviation occurred in that the Respondent failed to perform weekly visual inspections as required under 40 CFR 63.173(b)(1) for a period of two (2) weeks for a recently added agitator in the Respondent's HPRU unit. Each failure to perform a weekly visual inspection of an agitator for indications of leaks is a violation of 40 CFR 63.173(b)(1) which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Title V Specific Condition B of Title V Permit No. 2586-V0, and Section 2057(A)(2) of the Act. According to the Respondent, upon discovery of the deviation, the agitator was checked and no visible evidence of a leak was detected.

- L. The Department has received the Respondent's 2003 Annual Title V Certification for Title V Permit No. 2586-V0 dated March 30, 2004, encompassing the time period from January 1, 2003, through December 31, 2003. According to information detailed in the Respondent's report, a permit deviation occurred from a date requirement outlined in Title V Permit No. 2586-V0, Specific Condition B, Paragraph 3. Part 70 Specific Condition B, Paragraph 3, states that semiannual reports shall be submitted on December 15 and June 15, to cover periods May 1 through October 31, and November 1 through April 30, respectively. According to the Respondent's letter dated September 22, 2003, the Respondent has submitted the required semiannual monitoring reports during each month following the end of each calendar semiannual monitoring period, on January 31 and July 31 for the monitoring periods of July 1 through December 31 and January 1 through June 30, respectively. Each failure to submit the required semiannual monitoring report by December 15 and June 15 is a violation of Part 70 Specific Condition B, Paragraph 3 of Title V Permit No. 2586-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- M. The Department received the Respondent's 2003 Annual Title V Certification for Title V Permit No. 2764-V1 dated March 30, 2004, encompassing the time period from March 21, 2003, through December 31, 2003. According to information detailed in the Respondent's report, a permit deviation occurred at Emission Point No. 108 (West Site Flare, A-SA204), on October 3, 2003, from 1:10 p.m. to 2:40 p.m. and on October 11, 2003, from 8:45 a.m. to 10:15 a.m., when the nitrogen purge to the flare was inadvertently left on between maintenance activities on equipment connected to the flare header system. This caused the maximum six (6) total hours allowed for maintenance activities per year to be exceeded. According to Title V Specific Condition No. 2 of Title V Permit No. 2764-V1, the

total time allowed for maintenance activities is six (6) hours per year and a VOC emission limit of 0.14 tons per year. According to the Respondent, no emission limits were exceeded during this period. This is a violation of Part 70 Specific Condition No. 2 of Title V Permit No. 2764-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about February 9, 2004, a multi-media inspection of the Respondent's facility was performed to determine the degree of compliance with the Act, Hazardous Waste Regulations and Air Quality Regulations. The Department has incorporated by reference 40 CFR Part 68, which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A and 40 CFR Part 63, which language has been adopted as a Louisiana regulation in LAC 33:III.5122. On or about April 16, 2004, a warning letter was issued to the Respondent. On or about May 26, 2004, a conference call was held with the Respondent to discuss the recommendations given to the Respondent in the CEMS report after the inspection on February 9, 2004, to ensure that they were addressing the items correctly. On or about June 11, 2004, the Department received a written response from the Respondent dated June 9, 2004. The following violations were noted during the course of the inspection:

The Respondent's incinerators NCIN-1 (ID No. 173) and NCIN-2 (ID No. 174) are subject to 40 CFR 63, Subpart EEE and operate under Title V Permit No. 2252-V0 issued April 11, 1997. These incinerators are equipped with a Continuous Emission Monitoring System (CEMS). The Department reviewed copies of the CEMS Daily Audit Sheets, Absolute Calibration Audit Summaries, and the QA/QC plan. According to this data, the Respondent failed to calibrate the carbon monoxide and oxygen analyzers when the calibration drift (CD) or zero drift (ZD) exceeded the values prescribed in the performance specifications. Each failure to calibrate the carbon monoxide and oxygen analyzers when the calibration drift (CD) or zero drift (ZD) exceeded the values prescribed in the performance specifications is a violation of 40 CFR 63.1209(d)(2) and appendix 4.1 of Subpart EEE of 40 CFR 63, which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Title V Permit No. 2252-V0, and Section 2057(A)(2) of the Act. The Respondent addressed this violation by implementing several training and procedural actions, including, but not

limited to: retraining staff to maintain analyzers according to MACT regulations, training staff to adjust analyzers each day if the calibration was slightly off, and completing a quarterly cumulative adjustment of the analyzer to determine if the analyzer was becoming faulty.

On March 17, 2005 a Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. MM-CN-04-0036 was issued to the Respondent. On or about April 27, 2005, the Department received a written response from the Respondent dated April 20, 2005. The response contained written comments relating to the CONOPP and presented details of the history of events surrounding the violations cited in the CONOPP and the actions taken to correct these violations.

A penalty in the amount of \$29,129.12 was assessed together with legal interest as allowed by law and all costs of bringing and prosecuting this enforcement action accruing after the date of issuance.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY-THREE THOUSAND AND NO/100 DOLLARS (\$23,000.00), of which One Thousand Three Hundred Fifty-nine and 12/100 Dollars (\$1,359.12) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty, the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Charles Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for

public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

HEXION SPECIALTY CHEMICALS, INC.

BY: [Signature]
(Signature)
Richard L. Monty
(Print)

TITLE: EVP-EHS

THUS DONE AND SIGNED in duplicate original before me this 12th day of JUNE, 20 07, at Cambridge, Ohio.



WILLIAM H. HAAK
Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

[Signature]
NOTARY PUBLIC (ID #)
William H. HAAK
(Print)

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

Mike D. McDaniel, Ph.D., Secretary

BY: [Signature]
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 9th day of July, 20 07, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20956)
Ted R. Bragley, Jr.
(Print)

Approved: [Signature]
Harold Leggett, Ph.D., Assistant Secretary